

HAYWARD POLICE DEPARTMENT

CASE REPORT

300 West Winton Avenue

Hayward, CA 94544

CASE# **2015-00069310**

EVENT	REPORTED DATE/TIME 9/2/2015 14:07	OCCURRED INCIDENT TYPE Weapon	CASE DISPOSITION Arrest
	OCCURRED FROM DATE/TIME 09/02/2015 14:07	OCCURRED THRU DATE/TIME 09/02/2015 14:07	LOCATION OF OCCURRENCE 275 GOODWIN St Hayward, CA 94544

OFFENSES	STATUTE/DESCRIPTION		COUNTS	ATTEMPT/COMMIT
	25400(a)(1) PC-F	Weapn	1	Commit
	25850(a) PC-F	WeapnB	1	Commit
	23900 PC-F	WeapnB	1	Commit
	11370.1 HS-F	DrugA	1	Commit
	626.95 PC-F	WeapnB	1	Commit
	11359 HS-F	DrugC	1	Commit

SUBJECT	SUBJECT TYPE Suspect		NAME (LAST, FIRST, MIDDLE SUFFIX) Martinez, Anthony, Balderas				<input type="checkbox"/> NON-DISCLOSURE
	DOB	AGE or AGE RANGE 5/28/1996 19	ADDRESS (STREET, CITY, STATE, ZIP)				[REDACTED]
	SEX	RACE Male Hispanic	EYE Brown	HAIR Black	HEIGHT or RANGE 5' 5" -	WEIGHT or RANGE 130	
	DL NUMBER/STATE		PFN [REDACTED]	PRIMARY PHONE [REDACTED]		PHONE #2	

SUBJECT	SUBJECT TYPE		NAME (LAST, FIRST, MIDDLE SUFFIX)				<input type="checkbox"/> NON-DISCLOSURE
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	SEX	RACE	EYE	HAIR	HEIGHT or RANGE	WEIGHT or RANGE	
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	DL NUMBER/STATE		PFN	PRIMARY PHONE		PHONE #2	

REPORTING OFFICER Cosgriff	DATE 384	REVIEWED BY 9/2/2015	Sill, Ryan
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GENERAL PROPERTY

GENERAL	PROPERTY CODE	SERIAL NUMBER	QUANTITY/UNIT OF MEASURE	VALUE
	ITEM TYPE and DESCRIPTION			

GENERAL	PROPERTY CODE	SERIAL NUMBER	QUANTITY/UNIT OF MEASURE	VALUE
	ITEM TYPE and DESCRIPTION			

GENERAL	PROPERTY CODE	SERIAL NUMBER	QUANTITY/UNIT OF MEASURE	VALUE
	ITEM TYPE and DESCRIPTION			

GENERAL	PROPERTY CODE	SERIAL NUMBER	QUANTITY/UNIT OF MEASURE	VALUE
	ITEM TYPE and DESCRIPTION			

FIREARMS PROPERTY

FIREARM	FIREARM PROPERTY CODE 1231 Property Code				VALUE \$,,300.00
	MAKEMODEL Sturm, Ruger & Co US Ruger Ruger	GUN TYPE PISTOL	GUN ACTION Semi-Automatic		
	SERIAL None	FINISH Dark	BARREL LENGTH 03	CALIBER 9mm	
	ADDITIONAL DESCRIPTIVE INFORMATION				

FIREARM	FIREARM PROPERTY CODE				VALUE
	MAKEMODEL	GUN TYPE	GUN ACTION		
	SERIAL	FINISH	BARREL LENGTH	CALIBER	
	OAN				
ADDITIONAL DESCRIPTIVE INFORMATION					

REPORTING OFFICER Cosgriff	DATE 9/2/2015	REVIEWED BY Sill, Ryan
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NARRATIVE

Suspect Description:

Anthony Martinez, DOB: 05-28-1996, [REDACTED]. [REDACTED]
[REDACTED].

Suspect Status:

[REDACTED]

Summary:

Anthony Martinez was observed from a distance walking through Sorensdale Park, adjacent to Tennyson High School, during school hours. Martinez was smoking as he walked, a violation of HMC 5-6.11(a). Martinez walked to the parking lot and got into a vehicle. As we attempted to contact Martinez based on our belief he was a truant student, he put his car in reverse and backed away. As we followed Martinez, a strong odor of marijuana could be smelled emanating from his vehicle.

A traffic stop was initiated in the parking lot. Once Martinez was stopped, a combination of burnt and fresh marijuana could be smelled coming from inside his vehicle. As Officer Waters removed Martinez from the vehicle to perform a cursory search for weapons, I immediately noticed a handgun tucked in his waistband. I placed Martinez in a control hold as I attempted to remove the firearm from his waistband. Martinez tensed his muscles and pulled away from Officer Waters. I was able to remove the handgun and place it on the trunk of Martinez' vehicle and then initiated a takedown as the firearm was well within Martinez' reach. Once on the ground, Martinez was placed in handcuffs.

Incident to arrest, Martinez was found to be in possession of a total of 30.8 grams of marijuana concealed inside his vehicle and on his person. A digital scale, \$241 cash in small denominations, and other paraphernalia was also located. Martinez' phone, collected for evidence, received several text messages, some of which indicated drug sales.

Narrative:

On 09-02-2015, I was working as a full time police officer for the City of Hayward. I was assigned to Tennyson High School (THS) as a School Resource Officer (SRO). I was dressed in a full Class "C" uniform with required badge and patches. I was riding in the passenger seat of a fully marked patrol vehicle with my partner, Officer Waters.

At approximately 1415 hours, Officer Waters and I were conducting extra patrol in Sorensdale Park, a park adjacent to the school. Sorensdale Park is not only used as a gathering place for students before and after school, but is also a place where local gang members loiter on a daily basis. On this day, school was scheduled to release students at 1430 hours.

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Cosgriff	384 9/2/2015	Sill, Ryan

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NARRATIVE (continuation)

While at the park, Officer Waters and I saw a Hispanic Male, later identified as Anthony Martinez, walking through. Based on Martinez' size and stature (5'05"/130 lbs), he appeared to be a juvenile and possibly a THS student. From a distance, it also appeared Martinez was smoking, a violation of HMC 5-6.11(a), smoking in a public place. As Officer Waters and I approached Martinez, he walked to the parking lot and got inside a red Ford Mustang (CA plate #6LHU552). As we neared Martinez, while still inside our patrol vehicle, I could smell a strong odor of burnt marijuana. As we drove toward the vehicle and attempted to contact Martinez, he placed the vehicle in reverse and backed away. We followed Martinez through the parking lot and I continued to smell the odor of marijuana which appeared to be coming from Martinez' car. No one else was in the immediate area.

Based on our observations, Officer Waters initiated a traffic stop on Martinez per HMC 4-9.02.5, daytime juvenile curfew, HMC 5-6.11(a), smoking in a public place, and to investigate the strong odor of marijuana. As we approached the vehicle, I immediately noticed a strong odor of both burnt and fresh marijuana emanating from Martinez' vehicle through the open passenger window. Martinez appeared nervous and fidgety. Due to the strong odor of marijuana that was clearly coming from Martinez' vehicle, Officer Waters had Martinez exit the vehicle and began to perform a cursory search of his person for weapons and detain him in order to further investigate. As Officer Waters began to search Martinez from behind, I immediately noticed a handgun tucked inside Martinez' waistband along his front right side.

I reached for the handgun and simultaneously grabbed Martinez' right wrist, which was down behind his back, with my left hand. As I did so, it appeared Martinez started to pull away from Officer Waters. I removed the handgun with my right hand while trying to maintain control of Martinez' right arm and placed the weapon on the trunk of his vehicle. Martinez then tensed his muscles and struggled with us as we attempted to restrain him. As this transpired, the handgun I removed from Martinez' waistband was well within his reach, approximately 1-2 feet, as we struggled against his vehicle; I feared he was trying to regain control of it.

Based on the close proximity of the handgun, and the fact that it was unknown whether Martinez had other weapons on his person, I initiated a rear wrist lock takedown on his right arm from behind him. Martinez landed face forward on his right side and I maintained control of his right arm. Martinez yelled several times, "I'm sorry." Once on the ground, Officer Waters and I placed Martinez into handcuffs and brought him back to his feet. Officer Waters continued to search Martinez and located a medicine bottle containing marijuana in his front right pants pocket, along with a moderate amount of cash. No other weapons were found on Martinez' person. (Refer to Officer Water's supplement report for more information.) It should be noted that I was wearing a Body Worn Camera (BWC) which captured my contact with Martinez.

Martinez was placed under arrest per PC 25850(a), possession of a concealed firearm, and PC 148 (a), resisting arrest. He was then placed in the back of our patrol vehicle. When asked if he was ok, Martinez complained of pain to his shoulder. HFD was summoned to the scene to treat and assess Martinez. I observed Martinez to have an abrasion on the left side of his face as a result of the

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NARRATIVE (continuation)

takedown.

Once Martinez was secured in the back seat of our patrol vehicle, I inspected the handgun, later identified as a Ruger LC9, 9mm semiautomatic handgun. I rendered the gun safe and found it to contain 7 live rounds of 9mm ammunition in the magazine. There was no round in the chamber of the firearm. Upon further inspection, I noticed the firearm's serial number had been completely filed down and was no longer visible.

Incident to Martinez' arrest, his vehicle was searched for additional weapons and/or contraband. Two sandwich style plastic bags containing a green, leafy substance were discovered inside the center console, along with a small digital scale, a glass marijuana pipe, and a medicine bottle containing several burnt ends of marijuana cigars, commonly known as "roaches." Based on training and experience, I immediately recognized the green, leafy substance to be marijuana. No other weapons or contraband were located inside Martinez' vehicle. The vehicle was later towed per VC 22651(h).

HFD responded to the scene as Martinez complained of pain to his right shoulder as a result of the takedown. He was transported to St. Rose Hospital via Paramedics Plus where he was later found to have sustained a broken collar bone.

Once back at the Hayward Police Department, I found the marijuana recovered from Martinez' vehicle to weigh 27.2 grams and the marijuana found in his left pocket to weigh 3.7 grams, 30.9 grams in total. Based on training and experience, I know the typical amount of marijuana for personal use to be less than 1 gram. Martinez also had \$241 cash on his person, with one \$100 bill and the remainder in small denominations, consistent with small drug transactions. The digital scale was functional and was covered in marijuana residue.

Martinez' cell phone, which we collected as evidence, received numerous calls and text messages while in our possession. One of the text messages read, "Serve me a 10 ho." I know from training and experience that marijuana is often sold in \$10 increments and the word "serve" is commonly used as a synonym for "sell." [REDACTED] Based on the amount of marijuana in Martinez' possession, the scale, cash, and text messages, I believed Martinez possessed the marijuana for sale. The cash was collected as evidence per HS 11470.

I added the charges of PC 25400(a), possession of a concealed firearm in a vehicle, PC 23900, possession of a firearm with altered or removed serial numbers, PC 626.9, possession of a firearm within 1000 feet of a school and where children gather, HS 11359(a), marijuana sales, and HS 11360 (a), transportation of marijuana for sale.

Martinez was found to be in possession of two cannabis cards, one of which was expired.

As of the completion of this report, Martinez was currently still in custody at St. Rose Hospital. When cleared for incarceration, Martinez will be booked into Santa Rita Jail.

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Cosgriff	384	9/2/2015

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NARRATIVE (continuation)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Crime Scene Description:

Sorensdale Park was located adjacent to THS, bordering the north side of the school. Martinez was contacted at the east entrance to the parking lot.

Witness Attempts:

Officer Correia contacted [REDACTED] [REDACTED], who was seated in the park. [REDACTED] saw Martinez walk toward the parking lot when the police arrived, but did not see when Martinez was contacted.

No other witnesses were located.

Suspect Statement:

Officer Marion admonished Martinez of his Miranda Rights at the St. Rose Hospital. Martinez stated he had the gun for protection, but did not mention the marijuana found inside the vehicle.

[REDACTED]

[REDACTED]

End of Narrative J. Cosgriff #384

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Cosgriff	384 9/2/2015	Sill, Ryan

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ADDITIONAL OFFENSES

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Cosgriff	384	9/2/2015
		Sill, Ryan

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CASE SUPPLEMENT REPORT

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EVENT	REPORTED DATE/TIME 09/02/2015 14:08	OCCURRED INCIDENT TYPE			
	OCCURRED FROM DATE/TIME	OCCURRED THRU DATE/TIME	LOCATION OF OCCURRENCE		

OFFENSES	STATUTE/DESCRIPTION				COUNTS	ATTEMPT/COMMIT

SUBJECT	SUBJECT TYPE		NAME (LAST, FIRST, MIDDLE SUFFIX)				<input type="checkbox"/> NON-DISCLOSURE
	DOB	AGE or AGE RANGE	ADDRESS (STREET, CITY, STATE, ZIP)				
	SEX	RACE	EYE	HAIR	HEIGHT or RANGE	WEIGHT or RANGE	
	DL NUMBER/STATE		PFN	PRIMARY PHONE		PHONE #2	

SUBJECT	SUBJECT TYPE		NAME (LAST, FIRST, MIDDLE SUFFIX)				<input type="checkbox"/> NON-DISCLOSURE
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	DL NUMBER/STATE		PFN	PRIMARY PHONE		PHONE #2	

REPORTING OFFICER Waters	DATE 393	REVIEWED BY 09/02/2015	Sill, Ryan
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NARRATIVE

Narrative:

I am currently assigned as the School Resource Officer at Tennyson HS. One of my primary duties is to conduct security checks at Sorensdale Park, which is adjacent to the school and is used by many students to travel to and from home.

On 9/2/15 around 1410 hours, I was doubled with Ofc. Cosgriff and we were parked inside Sorensdale Park, near the west side. I was standing outside my vehicle when I saw a male, later identified as (S) Anthony Martinez walk in to the park and stand near the snack bar. I was approximately 50 yards from Martinez and I could see that Martinez was smoking. A short time later, I could smell burnt marijuana was coming from Martinez' direction. I did not see any other subjects standing near Martinez at this time.

Martinez walked back to the parking lot and got in to the driver's seat of a red Ford Mustang, license plate #6LHU552. Ofc. Cosgriff and I got inside our patrol vehicle and drove towards Martinez to investigate. When I drove closer to Martinez' vehicle, he immediately reversed and started to drive out of the park.

Based on the fact, I witnessed Martinez smoking what appeared to be marijuana inside the park and also the fact Martinez was possibly a truant Tennyson HS student, I activated my overhead lights and siren and conducted a traffic investigation. Prior to contacting Martinez, I activated my department issued body camera and recorded the contact. (It should be noted that at some point during my contact with Martinez, my camera turned off.)

I contacted Martinez at the driver side door and could see that he appeared extremely nervous, as his hands were shaking. I also smelled a strong odor of both burnt and fresh marijuana emanating from Martinez and inside his vehicle. Based on Martinez' behavior and the strong odor of marijuana, I ordered Martinez to step out of his vehicle so I could detain him and further investigate.

When Martinez stepped out of the vehicle, I had a hold of his left hand and ordered him to put his right hand on his head. Martinez complied and stepped out of the vehicle. When Martinez exited the vehicle, I grabbed a hold of his right hand and placed his hands behind his back to perform a cursory search for weapons.

I then heard Ofc. Cosgriff yell out that Martinez had a gun. I immediately grabbed a hold of Martinez left hand with both of my hands, and pinned him up against his vehicle, to prevent him from accessing the gun and using it on Ofc. Cosgriff or myself. Ofc. Cosgriff had a hold of Martinez's right hand and was able to retrieve the gun from his waistband and place it on the trunk of the vehicle.

Based on the fact Martinez was still in close proximity to the firearm and I was unsure if he had any more weapons on his person or in his vehicle, I conducted a reverse wrist take down on Martinez. Martinez landed face forward on his stomach and I followed him to the ground, using my weight to control him. While on the ground I was able to secure Martinez in handcuffs and then pulled him to his

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Waters	393	09/02/2015

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NARRATIVE (continuation)

feet.

I then conducted a search incident to arrest of Martinez and located a pill bottle in his left front pocket, which contained marijuana.

Martinez had a complaint of pain to his back and shoulder, so I advised HPD Dispatch to start HFD and Paramedics Plus who later arrived and provided medical attention. Ultimately, Martinez was transported to St. Rose Hospital for additional medical care.

Physical Evidence:

I downloaded my department issued body camera to the HPD main database and booked the contact in to HPD Evidence.

Refer to Officer Cosgriff's case report for complete details.

*** End of Narrative D. Waters #393.

REPORTING OFFICER	DATE	REVIEWED BY
Waters	393	09/02/2015

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EVENT	REPORTED DATE/TIME 09/02/2015 14:07	OCCURRED INCIDENT TYPE			
	OCCURRED FROM DATE/TIME	OCCURRED THRU DATE/TIME	LOCATION OF OCCURRENCE		

OFFENSES	STATUTE/DESCRIPTION				COUNTS	ATTEMPT/COMMIT

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REPORTING OFFICER Marion	DATE 450	REVIEWED BY 09/02/2015	Sill, Ryan
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NARRATIVE

SUPPLEMENT NARRATIVE:

The purpose of this report is to document my level of involvement with the investigation surrounding HPD report 2015-69310.

On 9/2/15, around 1407 hours, I heard over HPD radio that Officer Waters and Officer Cosgriff were conducting a traffic stop in the area of Sorrentsdale Park located at 275 Goodwin Way in Hayward. After a few moments, I heard Officer Waters advise over the radio, "he has a gun." Once that radio traffic was broadcast, several HPD units were dispatched code-3 to assist. Officer Waters then advised over the air that he was struggling with the subject. It sounded as if Officer Waters' voice was stressed. I also responded code-3, but arrived several minutes later due to heavy traffic.

By the time I arrived, Officer Waters had already advised that he was ok. I could not see any subjects in or around the red vehicle that Officer Waters and Cosgriff had originally pulled over. I then asked how I could assist and was tasked towing the suspect's vehicle.

I completed a CHP-180 form and requested a tow truck respond to our location. I was later asked to follow the Paramedics Plus ambulance to St. Rose while the suspect, Anthony Martinez, was transported. I followed the ambulance to St. Rose and arrived around 1500 hours. The medical forms were completed, and Martinez was provided medical treatment.

While waiting with Martinez, I was asked by Sgt. Sill to read Martinez his Miranda rights and interview him regarding the incident. Using my department issue body worn camera, I captured the interview. I later placed my BWC into its docking station at HPD where the footage was downloaded. Martinez told me the following in summary:

It should be noted that after I read Martinez his Miranda rights, he began talking to me about the incident. I asked Martinez if he would like to give me his side of the story and he began talking immediately after I asked. Martinez admitted that he was at Sorrentsdale Park, and after going to the bathroom, he got into his car and began to drive away. Martinez was then pulled over by a police car and the an Officer asked him to step out of the vehicle. Martinez said that while he was being searched, the Officers found his gun that he was carrying in his waistband. Martinez said he was then thrown into his car and then onto the ground. Martinez said he remembered being struck several times and being held on the ground by the Officers. Martinez said he hurt his shoulder during the incident.

Martinez claimed he carries a gun for protection, adding that the gun did not belong to him. I asked Martinez who the gun belonged to, but he refused to tell me. Martinez also believed it was his right to carry a gun and said he "was in the process" of obtaining a license to carry a gun. Martinez later said he knew it was illegal to have a gun after I asked him if he had anything illegal in his car at the time of the stop.

Martinez said he believed the Officers who arrested him used excessive force, but when I advised him how to file a complaint, he did not seem interested. I provided him the information necessary for him to

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Marion	450	09/02/2015

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NARRATIVE (continuation)

file a complaint and asked him if he wanted to add anything to his statement before ending the recording. After the recording was stopped, I did not talk to Martinez about the incident, nor did Martinez say anything about the incident. I was relieved at St. Rose by Reserve Officer Angeli around 1730 hours. [REDACTED]

END OF REPORT R. MARION #450

REPORTING OFFICER	DATE	REVIEWED BY
Marion	450	09/02/2015